



BULLETIN

LEGISLATIVE UPDATE: 2001

The following is a summary of selected bills passed during the last legislative session which pertain to workers' compensation, the judiciary or state government. Several other bills were introduced which would have directly affected the Workers' Compensation Act; however, none of them passed. Copies of any of the bills listed below may be downloaded from the Unicameral's web site at <http://www.unicam.state.ne.us>.

BILLS RELATED TO WORKERS' COMPENSATION

Legislative Bill 55 — Section 9-109, of the Uniform Commercial Code, was amended to enact the Structured Settlements Transfers Protection Act. It prohibits transfer of structured settlement payment rights unless the transfer has been authorized in advance by the court that authorized the structured settlement. LB 55 included language specifically stating that this Act **does not apply to an assignment or transfer of a claim or right to receive workers' compensation benefits.**

Effective date April 5, 2001.

... CONTINUED ON PAGE 2

Nebraska Workers' Compensation Court
State Capitol Building, Lincoln, NE 68509
800-599-5155 or 402-471-6468
<http://www.nol.org/workcomp/>



NEW PRESIDING JUDGE ELECTED TO WORKERS' COMP. COURT

Judge Michael K. High was elected Presiding Judge of the Nebraska Workers' Compensation Court at the biennial meeting of the court's judges in Lincoln on June 28, 2001.

Judge High replaces Judge Ronald L. Brown, who has been presiding judge since July 1, 1997.

The seven Nebraska Workers' Compensation Court judges, appointed by the governor, have statewide jurisdiction to hear disputed cases of job-related injuries, illnesses or deaths. The presiding judge is selected from among the judges for a two-year term.

Judge High was appointed to the Nebraska Workers' Compensation Court on January 8, 1998. He is a graduate of the University of Nebraska—Lincoln and the University of Nebraska College of Law. He was formerly a farmer and rancher (1972–1982), an elected commissioner on the Gosper County, Nebr., Board of Commissioners (1978–1982), and an attorney in private law practice (1986–1998). Judge High was appointed to the Workers' Compensation Court by Governor Ben Nelson. ❖

MICHAEL K. HIGH

REMINDER REGARDING E-MAILING JUDGES' ASSISTANTS

Following are the current e-mail addresses of our Judges' Assistants.

- **Dawn Jensen**, djensen@wcc.state.ne.us (Assistant to Judge High)
- **Shelia Richards**, sheliar@wcc.state.ne.us (Assistant to Judges Van Norman and Fitzgerald)
- **JoAnn Maurer**, joannm@wcc.state.ne.us (Assistant to Judges Coe, Cavel, and Brown) ❖

LEGISLATIVE UPDATE 2001:

... CONTINUED FROM FRONT PAGE

BILLS RELATED TO THE JUDICIARY

Legislative Bill 357 — Provides for an increase in the salaries of judges.

Effective date June 1, 2001.

Legislative Bill 489 — Subpoenas: Amends Nebraska law regarding subpoenas issued during the discovery phase of an action. The legislation provides that when discovery rules promulgated by the Supreme Court authorize discovery from a non-party without a deposition, a subpoena shall be issued by the clerk of the court before whom the action is pending upon request of a party. An attorney as an officer of the court may also issue and sign such a subpoena on behalf of a court in which the attorney is authorized to practice. The subpoena shall be served in the time and manner required by the discovery rules. Such discovery rules shall not be construed to permit discovery by subpoena if the information is protected by statute or if that procedure conflicts with any other statute. This legislation

and proposed Supreme Court rule is the product of the Supreme Court Committee on Practice and Procedure. The Supreme Court will consider amending the Nebraska Discovery Rules to provide a procedure for subpoenaing records during the pendency of a lawsuit. The proposed rule will likely be patterned after current federal discovery rules.

Summary Judgment: LB 489 also clarifies the current statute governing motions for summary judgment. The legislation provides that a motion for summary judgment sought shall be rendered if the pleadings and evidence admitted at the hearing show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. The change was made to clarify that evidence must be offered and admitted into evidence at the hearing before it can be considered by the court. The previous statute may have been interpreted by some to suggest that filed pleadings or discovery docu-

ments may be considered as evidence without being offered by a party at the hearing on the motion for summary judgment. This legislation also comes from the Supreme Court Committee on Practice and Procedure.

Effective date September 1, 2001.

BILLS RELATED TO STATE GOVERNMENT

Legislative Bill 193 — Adopts the Nebraska Workforce Investment Act consistent with requirements of the federal Workforce Investment Act of 1998. The federal act requires states to streamline their workforce development programs into single entities called one-stop centers. These one-stop centers will unify training, education and employment programs. It will be administered by the Dept. of Labor with oversight by the Governor.

Effective date March 2, 2001. ❖

NWCC SUBSCRIPTION SERVICE

The Nebraska Workers' Compensation Court offers a subscription service for obtaining selected court publications and forms. To take advantage of this service, send in a written request including your company's name, contact person, address and phone number, along with a check or money order in the amount of \$30 made out to the court. For more information, please call the court's toll-free information line 800-599-5155 or 402-471-6468.

Please note that the court's subscription service does not include the Schedule of Medical and Hospital Fees. ❖

NOTICE:

The following general information telephone number:

402-471-2568

has been removed.

Please call the Nebraska Workers' Compensation Court Information Line:

800-599-5155

or

402-471-6468

VOCATIONAL REHABILITATION DOCUMENTS NO LONGER INCLUDED IN THE DOCKET FILE

As the court continues to expand its electronic business practices, it evaluates and changes internal processes and procedures when necessary. One such procedural change involves

removing information unrelated to the litigation process from the docket file.

Historically, when there has been litigation on a case also open in vocational rehabilitation, all Vocational Rehabilitation documents have been included in the docket file. However, this information will no longer be included and will be removed from existing docket files as they are found.

Examples of Vocational Rehabilitation documents no longer included in the docket file are: Requests for Appointment of Counselor, Change of Counselor Requests, Vocational Rehabilitation Counselor Designations, Vocational Rehabilitation Plans and substantiating information.

Please direct written questions or comments to Kris Peterson, Vocational Rehabilitation Manager, or email her at krisp@wcc.state.ne.us. ❖

HAVE YOU VISITED OUR WEB SITE YET?

Several publications and forms produced by the Nebraska Workers' Compensation Court, as well as information regarding the Nebraska Workers' Compensation Act and the court's operations, are available on the court's Internet web site at:

<http://www.nol.org/workcomp/>

Recent additions to our web site:



A new "Software" page which includes a link to our "Weeks Between Dates and Benefit Calculation" spreadsheet.



A new Subsequent Report of Injury (SROI) Guide for Electronic Data Interchange (EDI).



An online service which provides automatic notice, by email, of the court's Electronic Data Interchange Advisories as well as updates to the "What's New" page. *Subscribe today!*



FEE SCHEDULE REVISION

The court is in the early stages of considering revisions to its Schedule of Medical and Hospital Fees. It is anticipated the schedule will be updated to include 2002 CPT codes and 2002 RBRVS relative value units. Written comments and suggestions can be sent to Kris Peterson, Coverage and Claims Manager, or emailed to krisp@wcc.state.ne.us. ❖

ADVISORY NOTICE:**SUBSEQUENT REPORT (NWCC FORM 4)**

The Nebraska Workers' Compensation Court recently adopted new requirements for the filing of compensation and expense information which became effective July 1, 2001.

The court will also require electronic filing pursuant to the new requirements effective July 1, 2002. Consequently, the court has adopted a new paper format for the Subsequent Report (NWCC Form 4); revised 12-00 which also became effective July 1, 2001.

Notice was sent to all insurers, self-insureds, pools, etc. explaining the new paper format changes and providing adequate time for employers and insurers to exchange the old forms for the new ones. The new paper format is designed to duplicate informa-

tion the court will receive electronically, pursuant to national standards.

A Subsequent Report must be filed with the court by the insurer, risk management pool, or self insured employer:

1. Within 14 days following initial payment of compensation, whether for weekly income or non-weekly income benefits.
2. Within 14 days following the denial of a claim or a change to a previous report.
3. On the semi-annual anniversary of the date of injury, and every 180 days thereafter until the case is closed.
4. Within seven working days following the closing of any case for which benefits have been paid.

5. Within 14 days following payment pursuant to a final order, award, or judgment of the court, including an order approving a lump sum settlement or settlement agreement.

6. Within 30 days of receipt from the court of a notice of error and request for correction of a previously filed subsequent report.

Also, any Subsequent Report received that does not contain the mandatory and correct information will be returned as not accepted for reasons of incompleteness. A Subsequent Report Implementation Guide has been published on the EDI page of the court's website: <http://www.nol.org/workcomp/edi.htm>.

This guide, published in portable document format (PDF), includes information for reporting compensation and expenses both on paper and through electronic means. Please direct any additional questions regarding the new Form 4 to Allen Kassebaum, NWCC Compliance Examiner, at 402-471-2953 or email him at allenk@wcc.state.ne.us.

A copy of the court-adopted Subsequent Report (NWCC Form 4) complete with general instructions is included on page 5. Also, this form may be downloaded from the Publications/Forms page of our website: <http://www.nol.org/workcomp/pubs.htm> or requested at no cost (individually or in packages of 250) by calling the court information line: 800-599-5155 or 402-471-6468.

FAXED PLEADINGS TO COMP. COURT MUST CONFORM TO RULES

Attorneys who fax their pleadings must conform to Rules 4 and 10 of the *Nebraska Supreme Court Rules for the Use of Fax Machines in State Courts*. Rules 4 and 10 read as follows:

Rule 4: Original Transmission. A plain-paper original transmission shall constitute a filing. The sender shall retain the original document transmitted by fax for a period of not less than the maximum allowable time to complete the appellate

process, unless otherwise directed by a court.

Rule 10: Signature. A person seeking to file a signed document may fax a copy of the original signed document. Notwithstanding any provision of law to the contrary, a signature reproduced on a fax transmission is an original signature for the purpose of the fax filing only. Anyone who files a signed document by fax represents that the original signed document is physically in his or her possession or control. ❖

NWCC FORM 4
REVISED 12-00

WAGE

WAGE PERIOD

PAYMENTS	
1	100
2	100
3	100
4	100
5	100
6	100
7	100
8	100
9	100
10	100
11	100
12	100
13	100
14	100
15	100
16	100
17	100
18	100
19	100
20	100
21	100
22	100
23	100
24	100
25	100
26	100
27	100
28	100
29	100
30	100
31	100
32	100
33	100
34	100
35	100
36	100
37	100
38	100
39	100
40	100
41	100
42	100
43	100
44	100
45	100
46	100
47	100
48	100
49	100
50	100
51	100
52	100
53	100
54	100
55	100
56	100
57	100
58	100
59	100
60	100
61	100
62	100
63	100
64	100
65	100
66	100
67	100
68	100
69	100
70	100
71	100
72	100
73	100
74	100
75	100
76	100
77	100
78	100
79	100
80	100
81	100
82	100
83	100
84	100
85	100
86	100
87	100
88	100
89	100
90	100
91	100
92	100
93	100
94	100
95	100
96	100
97	100
98	100
99	100
100	100

PAYMENT TYPE

BENEFIT ADJUSTMENTS

BENEFIT ADJUSTMENTS

PAID-TO-DATE PAID-TO-DATE

PAID-TO-DATE

CLAIM ADMINISTRATION

INSURER NAME	FEIN	CLAIM STATUS	OPEN <input type="checkbox"/>	REOPENED <input type="checkbox"/>	
			CLOSED <input type="checkbox"/>	REOPENED/CLOSED <input type="checkbox"/>	
THIRD PARTY ADMINISTRATOR NAME	FEIN	CLAIM TYPE	MEDICAL ONLY <input type="checkbox"/>	NOTIFICATION ONLY <input type="checkbox"/>	BECAME LOST TIME <input type="checkbox"/>
			INDEMNITY <input type="checkbox"/>	BECAME MED ONLY <input type="checkbox"/>	TRANSFER <input type="checkbox"/>
CLAIM ADMINISTRATOR CLAIM NUMBER		AGREEMENT TO COMPENSATE	WITHOUT LIABILITY <input type="checkbox"/>		
			WITH LIABILITY <input type="checkbox"/>		
CLAIM ADMINISTRATOR ADDRESS		LATE REASON			
PHONE # _____					
		DATE PREPARED			
CITY _____ STATE _____ ZIP CODE _____					
FORM PREPARER'S NAME		PREPARER'S PHONE			

General Instructions

Items in bold are mandatory fields. Subsequent Report of Injury (SROI) without this information will be returned.

Item—Definitions

- Employee Name—the injured worker's legally recognized name.
- **Social Security Number**—a number assigned by the Social Security Administration used to identify the employee.
- **Date of Injury**—date on which the accident occurred.
- **Jurisdiction**—the governing body or territory whose statutes apply (NE).
- Date Disability Began—the first day on which the employee originally lost time from work due to the occupational injury or disease or as otherwise defined by the jurisdiction.
- Pre-Existing Disability—identifies the existence of a disability that existed prior to the injury.
- Date of Representation—the date the claim administrator became aware that the claimant had secured legal representation.
- Date of Death—the date the injured worker died.
- Date of Return/Release to Work—the date, following the most recent disability period, on which the employee actually returned to work, or was released to return to work, as identified by the return to work qualifier.
- Return to Work Qualifier—a code identifying the employee's return to work status, with or without physical restrictions.
- Agency Claim Number—the number assigned by the Nebraska Workers' Compensation Court to identify a specific claim.
- Number of Dependents—the number of dependents as defined by the administering jurisdiction.
- Dependent/Payee Relationship—the relationship of the dependent(s)/payee(s) to the deceased employee; to which relationship and benefit entitlement may be determined by an adjudicator's decision for distribution of the death benefit.
- Date of Maximum Medical Improvement—the date after which further recovery from or lasting improvement to an injury or disease can no longer be anticipated based upon reasonable medical probability.
- Permanent Impairment Body Part Code—a code referencing the part(s) of body permanently impaired.
- Permanent Impairment Percentage—report the amount of part(s) of body or functional abnormality or loss which results from the injury and exists after the date of maximum medical improvements.
- Employer Name—the name of the business entity of the insured where the employee was employed at the time of the injury.
- Employer FEIN—the FEIN of the employer where the employee was employed at the time of the injury.
- Insured Report Number—a number used by the insured to identify a specific claim.

Wage

- Wage Period—a code indicating the time period during which the wage was earned.
- Wage—the average wage of the employee at the time of injury as calculated by the claims administrator or jurisdictional authority for the wage period.
- Number of Days Worked—the number of the employee's regularly scheduled work days per week.
- Salary Continued Indicator—the employer has paid or is paying the employee's salary in lieu of compensation during an absence caused by a work-related injury.

Payments

- Payment/Adjustment Type—a code that identifies the payment or adjustment being made.
- Payment/Adjustment Start Date—For weekly benefits: the first start date of a benefit period for which benefits were paid. For adjustments: the first date for which the adjustment is applied.
- Payment/Adjustment End Date—For weekly benefits: the last date of a benefit period for which benefits were paid. For adjustments: the last date for which the adjustment is applied.
- Payment/Adjustment Weeks Paid—the number of whole weeks for a specific payment/adjustment code.
- Payment/Adjustment Days Paid—the number of days paid for a specific payment/adjustment code.
- Payment/Adjustment Weekly Amount—the net weekly rate for the payment/adjustment code being paid as modified by any applicable benefit adjustment(s).
- Payment/Adjustment Paid to Date—the cumulative amount paid for the payment/adjustment code being paid as modified by any applicable benefit adjustment(s).
- Benefit Adjustment Type—a code used to identify an adjustment being applied to a weekly payment/adjustment amount, still in effect (non-suspension).
- Benefit Adjustment Weekly Amount—the weekly amount of benefit adjustment applied per payment/adjustment code.
- Benefit Adjustment Start Date—the first date a benefit adjustment was applied.
- Paid to Date/Reduced Earning/Recoveries Type—a code that identifies the type of paid to date/reduced earnings/recoveries made.
- Paid to Date/Reduced Earning/Recoveries Amount—the amount defined by the paid to date/reduced earnings/recoveries code.

Claim Administrator

- Insurer Name—the name of the insurer or self insured assuming the employer's financial responsibility for workers' compensation claim(s).
- **Insurer FEIN—insurer's Federal Employer's Identification Number.**
- Third Party Administrator Name—the name of the Third Party Administrator contracted to adjust the claim on behalf of the carrier or self insured.
- Third Party Administrator FEIN—the Federal Employer's Identification Number of the third party administrator's independent adjuster, contracted to adjust the claim on behalf of the insurer or self insured.
- **Claim Administrator Claim Number—identifies a specific claim within a claim administrator's claims processing system.**
- Claim Administrator Address—the address of the claim administrator.
- Claim Administrator Postal Code—the postal code of the claim administrator's processing facility's mailing address for this claim.

Claim Status

- **Claim Status—a code representing the current status of the claim.**
- Claim Type—a code representing the current benefit classification of the claim as interpreted by the jurisdiction
- Agreement to Compensate Code—a code used to identify the condition under which compensation benefits are being paid.
- Late Reason Code—a code which identifies the reasons payment/report was not made within a jurisdiction's requirements.

Type or print neatly your response in ink.

EDI PRODUCTION TO INCLUDE NEW FORM 4

The Nebraska Workers' Compensation Court is expanding the scope of its Electronic Data Interchange (EDI) initiative. Claims administrators will have the ability to file compensation and expense information electronically, based on national standards.

The court will mandate electronic filing of subsequent report information, effective July 1, 2002. However, the court may accept voluntary electronic filing as early as Autumn 2001. A new paper Subsequent Report (Form 4), which parallels the data found in the International Association of Industrial Accidents Boards and Commissions (IAIABC) Release 1 standard, is being used to file this information in the meantime. For more information on Subsequent Report filing, please refer to the related article on page 4 of this issue.

EDI, as used in many industries, is the computer-to-computer exchange of standard business data using telecommunications. In workers' compensation, EDI refers to the electronic transmission of claims information from Claims Administrators to a state workers' compensation agency. Currently Nebraska accepts only first report of injury information via EDI. As of July 1, 2001, between 95 and 100 percent of all first reports are being filed electronically by the court's 127 EDI trading partners.

EDI IN THE WORKERS' COMPENSATION ARENA

Since the beginning of workers' compensation in the United States, administrators have struggled with developing uniform practices and statistics. Throughout the years, various models were introduced. Jurisdictions modified these models to meet their individual require-

ments, thus defeating the purpose of a standard format.

In the 1970s legislators began questioning how their workers' compensation systems were working compared to other state systems, and in the 1980s the IAIABC created a Statistics Committee, whose task it was to identify, compare, and standardize injury data across jurisdictional boundaries.

As technology boomed in the 1990s, carriers and jurisdictions met in an effort to continue the standardization process in order to develop electronic reporting of injury data. The result was the formulation of the IAIABC Electronic Data Interchange Steering Committee, which focused on defining common data elements used when filing claims and developed a standard format for the electronic transfer of claims data from jurisdiction paper report of injury forms.

EDI IN NEBRASKA

An EDI working group began meeting in 1994, setting the foundation to accomplish several goals laid out by management of the Nebraska Workers' Compensation Court. The court's first EDI trading partner began production May 5, 1997. The court then communicated its desire to go EDI, resulting in additional insurers and claim administrators signing trading partner agreements and transmitting claims information.

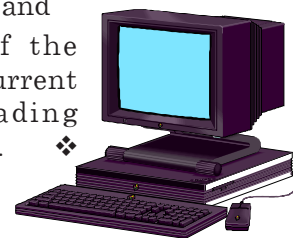
Meanwhile, the court's Information Technology section continued to re-write the computer system, moving from a mainframe environment to a personal computer based client/server environment. A new First Report of Alleged Occupation Injury or Illness (FROI) was adopted and in 1999, the court mandated the use of EDI.

To prepare claims administrators for the mandate, the court sent out advisory notices and began rejecting paper FROIs that did not conform to the EDI mandatory requirements, opening the lines of communication and preparing claims administrators for EDI reporting. To facilitate this process, the court has developed an EDI Implementation Guide to help claims administrators understand specific details for reporting in the Nebraska.

KEEPING INFORMED

Keeping informed about the progress of the court's EDI project has never been easier. The court's web site (<http://www.nol.org/workcomp/>) has a page devoted to its EDI initiative which includes:

- the court's procedural Rule 29, effective Dec. 1, 1999, which mandated electronic filing of first report of injury information effective July 1, 2000;
- the court's procedural Rule 30, effective July 1, 2001, which mandates electronic filing of subsequent report information effective July 1, 2002;
- all EDI advisory notices, and an electronic form for subscribing to receive automatic notification of advisory updates.
- the court's downloadable EDI Implementation Guide;
- the court's downloadable Subsequent Report Guide;
- Record Formats and Layouts;
- electronic links to the IAIABC's EDI Project and Certified EDI Vendors; and
- a list of the court's current EDI trading partners. ♦



NWCC RELOCATION REMINDER:

The Nebraska Workers' Compensation Court's State Capitol Offices, located on the 12th and 13th floors, have been temporarily relocated to the old Federal Courthouse, 129 North 10th Street, Lincoln, Nebraska. Office phone numbers will remain the same.

Mail: All mail, including certified, registered, and express mail should continue to be addressed to the court's post office box: Nebraska Workers' Compensation Court, P.O. Box 98908, Lincoln, NE 68509-8908.

Deliveries: When a physical location address is required (FedX, UPS, deliveries, etc.) please use: Nebraska Workers' Compensation Court, 129

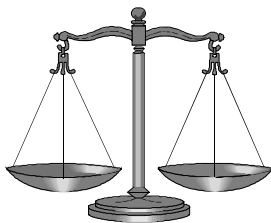
North 10th Street, Suite 300, Lincoln, NE, 68508.

Filings (By Mail): All filings by mail should continue to be addressed to: Nebraska Workers' Compensation Court, P.O. Box 98908, Lincoln, NE 68509-8908.

Filings (In Person): Please bring paperwork to 129 North 10th Street, 3rd Floor. Use the north-west corner elevators.

Hearings: *You are advised to call in advance of any hearings scheduled to confirm our location.*

The Nebraska Workers' Compensation Court's staff at the 525 Building will remain at that location. ❖



2001 : 2

BULLETIN



Nebraska Workers' Compensation Court
State Capitol Building, Lincoln, NE 68509
800-599-5155 or 402-471-6468
<http://www.nol.org/workcomp/>

PRSRT STD
U.S. POSTAGE
PAID
LINCOLN, NE
PERMIT NO. 212